

Town of Kittery Planning Board Meeting September 29, 2016

Town Code Amendment – Title 16, Land Use and Development Code

Action: Review amendment. The proposed amendment updates provisions associated with the Shoreland and Resource Protection Overlay Zone ordinances to comply with state regulatory standards.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Initial Planning Board Meeting	Scheduled for discussion on 9/29/2016	PENDING
NO	Secondary Planning Board Meeting		
YES	Public Hearing (special notice requirements)		TBD
YES	Review/Approval/ Recommendation to Town Council		TBD

Review

The intent of this amendment is to increase compliance of Title 16 with the most recent revision of the MDEP Chapter 1000 guidelines, revised January 2015. Only where Title 16 is *less* restrictive than Chapter 1000 are amendments required. The Board may decide to maintain or create ordinances in Title 16 that are *more* restrictive than Chapter 1000, if desired.

In preparation, Staff compared the revised Chapter 1000 guidelines with the existing Title 16 ordinances in order to identify inconsistencies. Below is a summary of proposed amendments.

1. Replace the term ‘below’ with the term ‘beyond’ when referring to setbacks and the high-water line. This occurs on 15 occasions throughout Title 16:
 - a. 16.2.2 (6), 16.3.2.17 (1), 16.3.2.17 (1), 16.7.8.2 (1), 16.8.15 (2), 16.8.26.1 (1), 16.9.1.5 (1), 16.9.5.1 (1) and 16.10.3.4 (1)
2. Revise 16.9.2.2, Clearing or Removal of Vegetation for Uses other than Timber Harvesting in a Resource Protection or Shoreland Overlay Zone to add ordinances addressing (1) Hazard Trees, Storm-damaged trees and dead tree removal; (2) Exemptions to clearing and vegetation removal requirements; and (3) Revegetation requirements.
3. Revise the definition of “Coastal Wetland” to stated “highest annual tide level” rather than “maximum spring tide level”
4. Revise the title of 16.8.15, Piers, Wharves, Marinas and Other Uses Projecting into Water Bodies, to read “Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland and Shoreline Stabilization.
5. 16.8.15.1.H – add a subsection clarifying “A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with, the Maine Department of Inland Fisheries and Wildlife as a watercraft”. It does not appear this ordinance is currently addressed within Title 16.
6. Revision to 16.8.26.1.B, Individual and private campsites in the Shoreland Overlay Zone to include additional provisions regarding dimensional requirements and campsite placement.
7. Chapter 1000 allows the Code Enforcement Officer to grant disability variances to principal dwellings within the Shoreland Overlay Zone. Currently, Title 16 requires all disability variances to be granted by the Board of Appeals.

8. Revised language of 16.9.1.1.A, Agriculture, to indicate the *Manure Utilization Guidelines* was published by the former Maine Department of Agriculture, currently Maine Department of Agriculture, Conservation and Forestry.
9. Several updates to 16.2.2, definitions.

Recommendation

This initial review is an opportunity for the Board to familiarize themselves with the pending amendments. If the Board is in agreement with the proposed amendments, the Board may continue the amendment (suggested motion provided below) and direct Staff to prepare a draft of proposed amendments reflective the above summary.

... move to continue the Town Code amendment Title 16, Land Use and Development Code to October 27, 2016.